

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sebastian Saavedra	Team: Squad #1	CCRB Case #: 202003154	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/08/2020 7:30 PM	Location of Incident: Broadway between Kosciuszko Street and Kossuth Place	Precinct: 83	18 Mo. SOL 11/8/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/09/2020 2:14 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 05/09/2020 2:14 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Andrew Obrien	25725	964190	081 PCT
2. SGT Yasin Elhaddad	3263	940123	081 PCT
3. PO Abel Lovera	01160	954081	081 PCT
4. PO Christian Angeron	14678	961619	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andrew Logatto	14334	950765	083 PCT
2. POM Gerson Abellard	14412	960117	083 PCT
3. POM Christopher Murphy	30523	967219	081 PCT
4. CPT Adeel Rana	00000	935565	084 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Yasin Elhaddad	Abuse: Sergeant Yasin Elhaddad stopped § 87(2)(g)	
B.PO Abel Lovera	Abuse: Police Officer Abel Lovera frisked § 87(2)(g)	
C.PO Abel Lovera	Abuse: Police Officer Abel Lovera searched § 87(2)(g)	
D.PO Abel Lovera	Discourtesy: Police Officer Abel Lovera was discourteous to § 87(2)(g)	
E.SGT Yasin Elhaddad	Discourtesy: Sergeant Yasin Elhaddad was discourteous to § 87(2)(g)	
F.PO Christian Angeron	Discourtesy: Police Officer Christian Angeron was discourteous to § 87(2)(g)	
G.PO Abel Lovera	Off. Language: Police Officer Abel Lovera was offensive toward § 87(2)(g)	
H.SGT Yasin Elhaddad	Off. Language: Sergeant Yasin Elhaddad was offensive toward § 87(2)(g)	
I.PO Christian Angeron	Off. Language: Police Officer Christian Angeron was offensive toward § 87(2)(g)	
J.POM Andrew Obrien	Discourtesy: Police Officer Andrew Obrien spoke discourteously to § 87(2)(g)	
K.POM Andrew Obrien	Discourtesy: Police Officer Andrew Obrien spoke discourteously to § 87(2)(g)	

### Case Summary

On May 9, 2020, § 87(2)(g) filed the following complaint via the CCRB's Call Processing System.

On May 8, 2020, at approximately 7:30pm, § 87(2)(g) was walking on Broadway, between Kossuth Place and Kosciuszko Street in Brooklyn, when he was approached by Police Officer Abel Lovera and Sergeant Yasin Elhaddad of the 81<sup>st</sup> Precinct anti-crime unit. PO Lovera and Sgt. Elhaddad stopped § 87(2)(g) (**Allegation A: Abuse of Authority - § 87(2)(g)** PO Lovera patted § 87(2)(g) down and reached into his pockets (**Allegations B and C: Abuse of Authority - § 87(2)(g)** While on scene, PO Lovera, Sgt. Elhaddad, and PO Christian Angeron wore patches depicting the logo of the "Punisher" comic book character (**Allegations D and E: Discourtesy - § 87(2)(g)** **Allegation F: Discourtesy - § 87(2)(g)** **Allegations G and H: Offensive Language - § 87(2)(g)** **Allegation I: Offensive Language - § 87(2)(g)** § 87(2)(g) was handcuffed and placed in a police car and made a call on his cell phone. PO Andrew O'Brien, of the 81<sup>st</sup> Precinct told § 87(2)(g) "Get the fuck in the car bro, are you fucking kidding me? Give me the fucking phone." and told § 87(2)(g) when he asked why PO O'Brien needed his phone, "cause you're making phone calls and shit." (**Allegation J: Discourtesy - § 87(2)(g)** PO O'Brien also called § 87(2)(g) a "fucking asshole," and a "fucking prick" (**Allegation K: Discourtesy - § 87(2)(g)** § 87(2)(g) was not summonsed or arrested.

Body-Worn Camera (BWC) footage was obtained for this case and captured part of the interaction. 10 BWC videos existed for this incident, but only five of these were provided as the rest required unsealing orders from juveniles, which were not obtained by the CCRB (Board Review 01, 02, 03, 04, and 05).

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Sergeant Yasin Elhaddad stopped § 87(2)(g)**

**Allegation (B) Abuse of Authority: Police Officer Abel Lovera frisked § 87(2)(g)**

**Allegation (C) Abuse of Authority: Police Officer Abel Lovera searched § 87(2)(g)**

§ 87(2)(g) a Hispanic male, testified that he was walking southeast on Broadway, between Kossuth Place and Kosciuszko Street in Brooklyn, when he observed a black Ford Taurus driving alongside him, keeping pace with him, against traffic. § 87(2)(g) looked at the car, and one of its occupants yelled something out the window, which § 87(2)(g) did not hear clearly. As he did not recognize the occupants of the car, § 87(2)(g) continued walking. The car sped up, then pulled up next to him. PO Lovera told § 87(2)(g) "I told you to stop." PO Lovera and Sgt. Elhaddad exited the car. PO Lovera asked § 87(2)(g) "Yo, don't you hear us telling you to stop? Why didn't you stop?" to which § 87(2)(g) responded that he had not stopped because he did not know who the officers were. § 87(2)(g) asked the officers if he was detained, to which neither officer responded. § 87(2)(g) then began to walk away. § 87(2)(g) was holding an umbrella over his head at the time, and PO Lovera walked into the umbrella. PO Lovera said, "Oh, so you gonna hit me with your umbrella?" to which § 87(2)(g) responded, "what are you kidding me? You just walked into it; Don't try to do that to me; You know I didn't hit you with the umbrella." PO Lovera replied, "now you're being detained," and grabbed § 87(2)(g) arms and placed them behind his back. PO Lovera and Sgt. Elhaddad then spoke to each other, though § 87(2)(g) could not hear what they were saying. PO Lovera then leaned into the radio on his shoulder, and said, "we have a positive point out." § 87(2)(g) stated he was handcuffed either at this point, or immediately after PO Lovera walked into his umbrella, but did not recall which. PO Lovera patted § 87(2)(g) down around his chest, waist, and legs, and reached into § 87(2)(g) pants pockets, and the front pocket of his hooded sweatshirt. PO Lovera took § 87(2)(g) knife from his pocket and placed it inside his own pocket. PO O'Brien and PO Christopher Murphy arrived on scene. Two of the officers brought him to a marked police car (Board Reviews 06 and 07).

The UF-61 (complaint report) generated for this incident states that an attempted robbery

occurred inside of 1057 Broadway (“My Clean Clothes” Laundry) between approximately 7:15pm and 7:20pm on May 8, 2020 (Board Review 13). A Google Map of the location shows that it is approximately three blocks from where § 87(2)(g) was stopped (Board Review 14).

The stop report prepared by Sgt. Elhaddad with regard to this incident indicates that the victim of the attempted robbery described the alleged perpetrator as a “Male Hispanic wearing gray sweatpants” and that § 87(2)(g) was stopped because he matched this description and was close to the location of the crime. § 87(2)(g) was observed with a bulge in his pocket, which was checked and revealed to be a knife. § 87(2)(g) was then visually identified by the victim in a show up and was placed under arrest (Board Review 14).

BWC footage from PO O’Brien shows § 87(2)(g) wearing a black hooded sweatshirt and gray pants (Board Review 02).

BWC footage from Sgt. Elhaddad opens with § 87(2)(g) holding an umbrella while speaking to PO Lovera. § 87(2)(g) umbrella makes contact with PO Lovera’s head and PO Lovera immediately turns § 87(2)(g) to face the wall that he was standing next to. Though the footage captures § 87(2)(g) at chest level and above, it appears that PO Lovera places him in handcuffs after turning him to face the wall. The audio engages shortly thereafter at 00:30. Starting at 01:52 Sgt. Elhaddad and PO Lovera discuss issuing § 87(2)(g) a summons (alternately saying 96, “C”, and c-summons to describe the issuance of a summons). Det. Lovera appears to lean down to look at § 87(2)(g) pocket. Det. Lovera says, “He has a knife back here; have a sector come over.” (Board Review 03).

BWC footage from PO Lovera opens with PO Lovera speaking to § 87(2)(g) coinciding with approximately 00:40 in Sgt. Elhaddad’s footage. § 87(2)(g) says that there was apparently a robbery up the block but that officers had stopped him for no reason. PO Lovera tells him that he refused to stop. At 00:21, PO Lovera grabs the outside of PO Lovera’s right pants pocket. At 01:47, just after discussing with Sgt. Elhaddad (as described above) issuing § 87(2)(g) a summons, PO Lovera says to § 87(2)(g) “Where’s your ID? Let me get your ID.” § 87(2)(g) replies that it is in his left pocket. At 01:49, PO Lovera again grabs the outside of § 87(2)(g) right pocket, which appears bulky. At 01:53, PO Lovera says to Sgt. Elhaddad, “he has a knife back here jefe” (boss in Spanish) while holding onto the outside of the pocket and asks for a sector to respond. At 02:11, PO Lovera reaches into § 87(2)(g) pocket and pulls out what appears to be a knife and § 87(2)(g) acknowledges that he has a knife. At 03:49, a message is heard over the radio that there was a positive hit and PO Lovera tells § 87(2)(g) that he was a “positive”. PO Lovera then walks § 87(2)(g) over to the police car (Board Review 05).

Sgt. Elhaddad testified that he received a radio run for a robbery at 1036 Broadway in Brooklyn. He and PO Lovera proceeded to canvass the area along with several other officers. They observed § 87(2)(g) walking down the street, and he matched the description provided by the victim (Sgt. Elhaddad did not recall this description, nor what § 87(2)(g) was wearing at the time). Sgt. Elhaddad told § 87(2)(g) “police, stop,” but § 87(2)(g) did not acknowledge this in any way, and continued walking. Sgt. Elhaddad told § 87(2)(g) to stop several more times, after which § 87(2)(g) stopped walking, and asked the officers what they were stopping him for. PO Lovera placed handcuffs on § 87(2)(g) Captain Adeel Rana, of the 84<sup>th</sup> Precinct, drove by shortly thereafter with the victim, who confirmed § 87(2)(g) was the perpetrator from a distance and radioed that information to Sgt. Elhaddad. Additional officers arrived from the 83<sup>rd</sup> Precinct, though Sgt. Elhaddad did not recall whom, and Sgt. Elhaddad and PO Lovera guided § 87(2)(g) to a police car (Board Review 08).

PO Lovera had no independent recollection of this incident, besides being involved in apprehending a robbery suspect. PO Lovera did not recall any conversation regarding a knife on § 87(2)(g) person, and did not recall whether he patted down § 87(2)(g) though acknowledged doing so after viewing his BWC (Board Review 09).

Officers are required to have reasonable suspicion that an individual committed, is committing, or is about to commit a crime in order to stop and detain them. In order to conduct a

frisk, officers must have reasonable suspicion to believe an individual is armed and dangerous. If an officer feels what is believed to be a weapon, the officer may search the affected area, People v. De Bour 40 N.Y. 2d 210 (Board Review 15).

Reasonable suspicion that an individual committed a crime may be attained if they match the description of a perpetrator, are observed in close proximity to the location of the crime in question shortly after its occurrence. People v. Holland, 4 A.D. 3d 375. (Board Review 29).

Officers are permitted to pat down and investigate bulges in a person's clothing if they have stopped them for matching the description of an individual suspected of an armed robbery. People v. Spivey 46 N.Y.2d 1014 (Board Review 31). The court found in People v. Finlayson, 76 A.D.2d 670, that an officer responding to a robbery could reasonably assume that the perpetrator was armed and subsequently take self-protective measures, namely a frisk (Board Review 33).

Based on thorough police documentation, § 87(2)(g) Sgt. Elhaddad and PO Lovera received a description of a perpetrator of an attempted robbery (Hispanic male, gray sweatpants) and that § 87(2)(g) matched this description, and was relatively close (three blocks away) to the incident location and within 10-15 min after the attempted robbery when Sgt. Elhaddad and PO Lovera observed him. § 87(2)(g)

BWC footage from PO Lovera shows that a visible bulge in § 87(2)(g) right pants pocket, and that PO Lovera felt the bulge with his hand, and after informing Sgt. Elhaddad that § 87(2)(g) had a knife, he retrieved a knife from inside § 87(2)(g) pocket. § 87(2)(g)

**Allegation (D) Discourtesy: Police Officer Abel Lovera was discourteous to § 87(2)(g)**

**Allegation (E) Discourtesy: Sergeant Yasin Elhaddad was discourteous to § 87(2)(g)**

**Allegation (F) Discourtesy: Police Officer Christian Angeron was discourteous to § 87(2)(g)**

**Allegation (G) Offensive Language: Police Officer Abel Lovera was offensive toward § 87(2)(g)**

**Allegation (H) Offensive Language: Sergeant Yasin Elhaddad was offensive toward § 87(2)(g)**

**Allegation (I) Offensive Language: Police Officer Christian Angeron was offensive toward § 87(2)(g)**

Screenshots from PO O'Brien's BWC footage show PO Lovera, PO Angeron, and Sgt. Elhaddad each wearing circular patches with what appears to be the logo of "the Punisher" comic book character, with unintelligible text around the patch's border (Board Reviews 16, 17, and 18).

Upon being shown BWC screenshots of himself and the officers who he was supervising, Sgt. Elhaddad acknowledged he was wearing a patch on his vest but did not recall what it was, and stated he was unable to discern what the image on it was from the photos, and therefore could not speak to whether they were sanctioned or produced by the NYPD, nor why he was wearing it. He did not know the meaning or significance of the patches (Board Review 08).

Upon being shown screenshots of the aforementioned patches, PO Lovera stated that he was not familiar with the meaning or significance of the patches (Board Review 09).

§ 87(2)(g)  
The Punisher skull symbol was originally loosely based on the German "Totenkopf" aka "Death's Head" symbol. The Totenkopf depicts a skull and crossbones and was adopted by Adolf Hitler's Nazi-era Schutzstaffel (SS) as their symbol during World War II. The "Punisher" logo represents a comic-book superhero initially conceived as a villain; a former servicemember-turned-vigilante who is completely unrestrained by morality or the law in his pursuit of his enemies (Board

Review 21). The Punisher symbol has since been adopted by several groups, most prominent among them the U.S. military, white supremacists, and law enforcement. Between 2017 and 2021, the Punisher logo has been visible on articles of clothing and weapons held at white supremacy rallies (Board Review 22).

The mission of the NYPD is to enhance the quality of life in New York City by enforcing the law, preserving peace, reducing fear, and maintaining order. The department is committed to treating citizens with courtesy, professionalism, and respect, while enforcing the law impartially. As part of their core values, the NYPD seeks to maintain a higher standard of integrity than is generally expected of others, value human life, and respect the dignity of individuals while rendering their services with courtesy and civility, NYPD Patrol Guide 200-02 (Board Review 23).

Officers are prohibited from using discourteous or disrespectful remarks regarding another person's ethnicity and race, knowingly associating with any person or organization advocating hatred, oppression, or prejudice based on race, and from engaging in conduct that is prejudicial to the good order, efficiency, or discipline of the Department NYPD Patrol Guide 203-10 (Board Review 24).

The Punisher symbol represents a character that engages in criminal behavior and violence and has been adopted by white supremacist groups. The symbol is inconsistent with the mission and values of the NYPD, namely those of enforcing the law, treating citizens with respect, and valuing human life. Additionally, the "Punisher" logo's association with white supremacist groups goes against the requirements of PG, which prohibit association with any person or organization advocating hatred, oppression, or prejudice based on race. § 87(2)(g)

**Allegation (J) Discourtesy: Police Officer Andrew O'Brien spoke discourteously to § 87(2)(g)**

**Allegation (K) Discourtesy: Police Officer Andrew O'Brien spoke discourteously to § 87(2)(g)**

§ 87(2)(g) testified that, as he sat in the police car, he maneuvered his body, took his cellphone out of his pocket, and called his girlfriend. PO O'Brien asked him who he was talking to, and PO Lovera replied that he was talking to himself. PO O'Brien climbed into the car and reached for § 87(2)(g) phone, and § 87(2)(g) tucked his phone into his stomach. PO O'Brien grabbed his arms and wrestled the phone away from § 87(2)(g). Two other officers then drove § 87(2)(g) to the stationhouse. § 87(2)(g) did not make any discourtesy allegations, and Allegations J and K were captured in PO O'Brien's BWC footage (Board Reviews 05, 06).

In PO O'Brien's BWC footage starting at approximately 01:22, the officers receive word of a positive show up and PO Lovera says, "Positive" and takes § 87(2)(g) by the crook of his right arm, and seats him inside the car. At approximately 03:14, PO O'Brien asks § 87(2)(g) if he is on his phone. § 87(2)(g) can be heard saying "babe," and appears to be speaking to someone on his cell phone. At 03:22 PO O'Brien says "listen bro, you can tell you're in police custody but you gotta hang up." § 87(2)(g) says into the phone, "I'm in police custody, and I don't know why the stopped me, and I'm in the car right now." PO O'Brien says, "tell her you're gonna be at the 83<sup>rd</sup> Precinct." § 87(2)(g) continues, "on Broadway, at the Kosciuszko stop, right under the train, I don't even know." At approximately 03:36, PO O'Brien says "bro you gotta hang up seriously, you can't stay on the phone." § 87(2)(g) asks PO O'Brien where the officers are taking him. PO O'Brien replies "83<sup>rd</sup> Precinct," twice. § 87(2)(g) says "babe, babe, I'm going to 83<sup>rd</sup> Precinct..." At approximately 03:46, PO O'Brien appears to lean into the car, and § 87(2)(g) says, "wait hold on, give me my phone" and repeats "give me my phone" several times. PO O'Brien says, "get the fuck in the car bro, are you fucking kidding me? Fucking asshole" and tells § 87(2)(g) "give me the fucking phone, give me the phone bro, give me the fucking phone." § 87(2)(g) repeatedly



says “give me the phone.” § 87(2)(g) says, “why do you need my phone?” twice, and PO O’Brien replies, “cause you’re making phone calls and shit; get the fuck off the phone.” At 04:12, PO O’Brien then closes the door and says, “get in the fucking car...asshole, fucking prick, can’t have a fucking phone” (Board Review 02).

PO O’Brien testified that once inside the police car, § 87(2)(g) made a call on his cellphone. He allowed § 87(2)(g) to finish the call as a courtesy but stated that prisoners were not ordinarily allowed to do so. PO O’Brien then asked § 87(2)(g) to hand over his cell phone, and § 87(2)(g) refused. PO O’Brien attempted to take the cell phone out of § 87(2)(g) hand, and § 87(2)(g) kicked him. PO O’Brien acknowledged that he told § 87(2)(g) “give me the fucking phone,” and called him a “fucking asshole.” PO Murphy stated that this was a tense interaction, and he used this specific language to get his point across (Board Reviews 10 and 11).

Officers are required to maintain a higher standard of integrity than is generally expected of others, value human life, respect the dignity of each individual, and render services with courtesy and civility, Patrol Guide Procedure 200-02 (Board Review 23).

Officers may use language which would ordinarily be inappropriate with civilians during a violent confrontation. An officer was found not to have committed misconduct when he cursed at a resisting civilian and in the context of gaining compliance with a lawful order, DAO-DCT case 2017-17276 (Board Review 28), but may not use unprofessional language or language designed to demean someone, DAO-DCT 2018-18951 (Board Review 32).

§ 87(2)(g)

In contrast to the above, when PO O’Brien called § 87(2)(g) a “fucking asshole” during the interaction and upon closing the car door once the interaction was concluded, called him an “asshole” and a “fucking prick” § 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first complaint to which § 87(2)(g) has been a party (Board Review 25).
- PO Angeron was a member-of-service for five years, and was named as a subject in 9 other CCRB complaints and 20 allegations, one of which was substantiated
  - 201906368 involved a substantiated allegation of failure to provide RTKA card. The Board recommended command discipline A and the NYPD imposed training.
- PO O’Brien has been a member-of-service for four years and has been named as a subject in one other CCRB complaint and one other allegation, which was not substantiated.
- Sgt. Elhaddad has been a member-of-service for 15 years and has been a subject in four other CCRB complaints, and 19 allegations, three of which were substantiated.
  - 201906368 involved substantiated allegations of failure to provide RTKA card, discourtesy (word), and other abuse of authority. The Board recommended Command discipline A for all allegations, and the NYPD imposed the same.
- PO Lovera has been a member-of-service for 9 years and has been a subject in 12 other CCRB complaints, and 31 other allegations, five of which were substantiated:
  - 201906368 involved substantiated allegations of failure to provide RTKA card, property damage, threat of arrest, discourteous action, and other abuse. The Board recommended command discipline A, and the NYPD imposed the same.

**Mediation, Civil, and Criminal Histories**

- Mediation was not offered as the mediation unit was not accepting cases.
- § 87(2)(g) filed a Notice of Claim with the City of New York On September 24, 2020, alleging false assault, battery, and false imprisonment by officers and seeking \$1,000,000 as redress (Board Review 27).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 1

Investigator: Inv. Saavedra 2/28/2022  
Signature Print Title & Name Date

Squad Leader: Mgr. Joy Almeyda 3.19.22  
Signature Print Title & Name Date

Reviewer: \_\_\_\_\_  
Signature Print Title & Name Date